

H. R. 4960
[Horton]

Purpose: Amends Freedom of Information Act (Title 5, section 522). Introduced - 8 March 1973.

Comment:

The amendments overturn the recent Supreme Court decision in the Patsy Mink case which denied court review of classified material exempt under the Act. The amendments would require a court review and court decision as to the sufficiency of a classification. The amendments also expedite an agency's handling of requests; narrow the definition of exempted material; require annual reports to Congress; and provide for payment of court and attorney fees.

This bill also establishes a Freedom of Information Commission comprised of membership from House, Senate and Executive and a court may seek the Commission's assistance in determining the sufficiency of a classification. The Commission is authorized to issue subpoenas, and an order compelling an agency to release material constitutes a prima facie case for court action. The Commission is advisory to a court and an individual can bypass the Commission and seek direct court relief.

Problem:

The amendments expose Agency material to declassification through court action. The establishment of the Commission does not necessarily assure protection of Agency interests. In view of the congressional and public clamor against overclassification, the Commission will undoubtedly promote disclosure, especially as concerns congressional requests. The bill clearly threatens the protection of Agency materials and directly conflicts with the Director's statutory responsibility to protect sources and methods. The courts could force disclosure and overrule a decision of the Director of Central Intelligence.

Status:

As of 15 March - referred to House Government Operations Committee.